

AMENDED IN ASSEMBLY AUGUST 5, 2014

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 199

Introduced by Senators De León, Evans, and Wolk

(Principal coauthors: Assembly Members Chesbro, Levine, and Yamada)

February 7, 2013

An act to amend Sections 16250 and 16700 of the Penal Code, relating to BB devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as amended, De León. BB devices.

Existing law prohibits a person from furnishing a BB device, defined to include a spot marker gun, to a minor without the permission of the minor's parent or guardian, and prohibits selling a BB device to a minor. Violation of either of these prohibitions is a crime. Existing law defines a BB device as any instrument that expels a projectile, such as a BB or pellet, that does not exceed 6 millimeters in caliber.

This bill would delete the 6 millimeter restriction from the definition of a BB device. By including a device that expels a BB or pellet that exceeds 6 millimeters in caliber within the definition of a BB device, this bill would expand the scope of existing crimes, and impose a state-mandated local program.

Existing law generally prohibits anyone from purchasing, selling, manufacturing, shipping, transporting, distributing, or receiving an imitation firearm. A person is liable for a civil fine of not more than \$10,000 for a violation of this prohibition. Existing law excludes *all* BB devices from the definition of imitation firearm for these purposes.

This bill would ~~include~~ *make* BB devices ~~within the definition of imitation firearm for purposes of~~ *that expel a projectile, such as a BB*

or a pellet, that is 6 millimeters or 8 millimeters in caliber subject to that prohibition, but and would exclude spot marker guns that expel a projectile larger than 10 millimeters in caliber from the prohibition.

Existing law, for purposes of regulating imitation firearms, adopts coloration and construction schemes prescribed by federal law. Existing law includes a cross-reference to those federal provisions.

This bill would delete the ~~federal provision~~ cross-reference *to the federal provisions.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16250 of the Penal Code is amended to
2 read:

3 16250. As used in this part, “BB device” means any instrument
4 that expels a projectile, such as a BB or a pellet, through the force
5 of air pressure, gas pressure, or spring action, or any spot marker
6 gun.

7 SEC. 2. Section 16700 of the Penal Code is amended to read:

8 16700. (a) As used in this part, “imitation firearm” means any
9 BB device, toy gun, replica of a firearm, or other device that is so
10 substantially similar in coloration and overall appearance to an
11 existing firearm as to lead a reasonable person to perceive that the
12 device is a firearm.

13 (b) As used in Section 20165, “imitation firearm” does not
14 include any of the following:

15 (1) A nonfiring collector’s replica that is historically significant,
16 and is offered for sale in conjunction with a wall plaque or
17 presentation case.

18 (2) A spot marker gun which expels a projectile that is greater
19 than 10mm caliber.

20 (3) *A BB device that expels a projectile, such as a BB or pellet,*
21 *that is other than 6 mm or 8 mm caliber.*

22 (3)

1 (4) A device where the entire exterior surface of the device is
2 white, bright red, bright orange, bright yellow, bright green, bright
3 blue, bright pink, or bright purple, either singly or as the
4 predominant color in combination with other colors in any pattern,
5 or where the entire device is constructed of transparent or
6 translucent materials which permits unmistakable observation of
7 the device's complete contents.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.